

## Attachment C

### INDEX TO CHANGES

June 2021



TBMP Section:	Nature of Change:
	<p><b>THROUGHOUT MANUAL</b></p> <p>Spacing, punctuation, formatting and typographical corrections as needed for consistency.</p> <p>Corrections to order of citations where appropriate in accordance with citation and manual protocols; pin point cites and parenthetical information added to cases brought forward from previous editions where appropriate; subsequent history updated where appropriate</p> <p>Citations to McCarthy’s checked and year updated (2021). (McCarthy is referenced in Chapters 300 and 600)</p> <p>Citations to Wright &amp; Miller Federal Practice and Procedure (FPP) checked and year updated (2020 or 2021, where appropriate). (Referenced in Chapters 300, 400, 500, 700)</p> <p>Checked, and updated as necessary, the Trademark Rules of Practice, Federal Rules of Civil Procedure, Federal Rules of Evidence, Federal Circuit Rules, TMEP cross references; TBMP cross references¶</p> <p>Replaced “standing” with new nomenclature “entitlement to a statutory cause of action”</p> <p>Removal of citation to <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i>, 123 USPQ2d 1844, 1847-48 (TTAB 2017) (rebuttal testimony not submitted with opposer’s case-in-chief admissible because directed to evidence submitted during applicant’s testimony period), <i>on appeal</i>, 3:17-CV-02150 (S.D. Cal. October 19, 2017)</p>
	<p><b>CHAPTER 100</b></p>
101	<p>2nd para: Updates website address for USPTO electronic copy of the Trademark Act and Rules; add information that the compilation was created for the public’s convenience and is not meant to serve as an official legal source</p>
101.03	<p>3rd para: Updates online address for TTAB Reading Room; modify last sentence for clarity</p>
101.03	<p>3rd para: Add new URL for TTAB online reading room substituted for previous reading room address</p> <p>4th para: Clarifies practice on citation to non-precedential opinions and interlocutory orders</p> <p>5th para: Clarifies practice on citation to case law and reporters</p> <p>Add new Notes 3 and 4; renumbered remaining notes</p> <p>Note 3. Add <i>Citation of Opinions to the Trademark Trial and Appeal Board</i>, O.G. Notice (Jan. 23, 2007); <i>In re tapio GmbH</i>, 2020 USPQ2d</p>

## TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>1138, at *8 n.34 (TTAB 2020); <i>In re Society of Health and Physical Educators</i>, 127 USPQ2d 1584, 1587 n.7 (TTAB 2018).</p> <p>Note 4: Add <i>In re tapio GmbH</i>, 2020 USPQ2d 1138, at *10 n.30 (TTAB 2020); <i>In re Morrison &amp; Foerster LLP</i>, 110 USPQ2d 1423, 1427 n.6 (TTAB 2014); <i>In re Procter &amp; Gamble Co.</i>, 105 USPQ2d 1119, 1120-21 (TTAB 2012); <i>Corporacion Habanos SA v. Rodriquez</i>, 99 USPQ2d 1873, 1875 n.5 (TTAB 2011)</p> <p>Note 5: Add new URL for TTAB online reading room substituted for previous reading room address</p>
101.05	Minor changes to each paragraph for clarity
106.01	Clarifies difference between the “caption” of the proceeding and the “title” of a document submitted
110.03	1st para: Clarifies when a party does not need add a certificate of service to a document submitted to the Board
111.01	Note 2: Changes “Trademark Operation” to “Trademark Examining Operation”
113.01	<p>2nd para: Clarifies that requests to amend or correct an application or registration which is the subject of an inter partes proceeding, voluntary abandonment of an application, or voluntary surrender of the involved registration are subject to the service requirement</p> <p>3rd para: Clarifies that the requirement for service applies to documents filed with the Trademark Examining Operation or the Assignment Recordation Branch regarding</p> <p>New Note 2: Add 37 C.F.R. § 2.133 and 37 C.F.R. § 2.135.</p>
113.03	Elements of certificate of service clarified to add email address of recipient of service copy of document filed with the Board
114.05	<p>Clarifies Office policy regarding the representation of a Canadian party as additionally appointed practitioners.</p> <p>Notes 2-8: Revised and reorganized</p>
118.02(b)	<p>Add new para. 4: Effective January 2, 2021, revision to <u>37 C.F.R. § 2.114(a)</u> providing partial refund of fee for a petition to cancel based solely on abandonment or nonuse where default judgment is entered because there is no appearance by a defendant and no filings are made other than the petition to cancel</p> <p>Add new para. 5: Add cross reference to TBMP § 1202.04 and TBMP § 1203.02(a) for information regarding new fees for filing a notice of appeal, an appeal brief, or a request for an extension of time to file an appeal brief in an ex parte appeal</p> <p>New Note 7: Add TRADEMARK FEE ADJUSTMENT, 85 Fed. Reg. 73197, 73210-11 (Nov. 17, 2020), effective Jan. 2, 2021. See 37 C.F.R. § 2.114(a)(2)</p>
118.02(c)	Add new subsection 118.02(c) “Fee for Filing a Request for an Oral Hearing before the Board” with new Note 1
	<b>CHAPTER 200</b>

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
201	<p>Add the following sentence at the end of section: “The Board lacks jurisdiction to decide an untimely filed opposition.”</p> <p>Note 6: Add <i>Renaissance Rialto Inc. v. Ky Boyd</i>, 107 USPQ2d 1083 (TTAB 2013); <i>Cass Logistics Inc. v. McKesson Corp.</i>, 27 USPQ2d 1075 (TTAB 1993)</p>
202.04	<p>Note 1: Add <i>Renaissance Rialto Inc. v. Ky Boyd</i>, 107 USPQ2d 1083 (TTAB 2013)</p>
206.01	<p>3rd para: Added after “standing”: “(now referred to as an entitlement to bring a statutory cause of action, see TBMP § 309.03(b))”; Replaced the word “standing” with “an entitlement to a statutory cause of action” throughout this sub-section</p> <p>Note 4: Add <i>Renaissance Rialto Inc. v. Ky Boyd</i>, 107 USPQ2d 1083 (TTAB 2013); <i>Cass Logistics Inc. v. McKesson Corp.</i>, 27 USPQ2d 1075 (TTAB 1993)</p>
215	<p>Paragraphs 1-2, and 6-10 revised to reflect changes in practice regarding Letters of Protest under Trademark Rule 2.149; subheadings retitled to “Determination Made on Letter of Protest During Extension of Time” and “Determination Made on Grant of Letter of Protest During Opposition”</p> <p>Note 1: Deleted <i>In re Urbano</i>, 51 USPQ2d 1776 (TTAB 1999); <i>In re BPJ Enterprises Ltd.</i>, 7 USPQ2d 1375 (Comm’r 1988); <i>In re Pohn</i>, 3 USPQ2d 1700 (Comm’r 1987)</p> <p>Note 2: Updates cross-references to TMEP § 1715.03 and TMEP § 1715.04 for further information concerning the standard applied by the Deputy Commissioner in determining whether evidence submitted with a letter of protest should be entered into the record</p> <p>Note 3: Replaces TMEP § 1715.03(b) with TMEP § 1715.02(b)</p> <p>Note 4: Replaces TMEP § 1715.03(c) with TMEP § 1715.03(b); deleted parenthetical to TMEP § 1715.03(b); adds TMEP § 1715.04(b).</p> <p>Note 7: Revises parenthetical to <i>Sheetz of Delaware, Inc. v. Doctor’s Associates Inc.</i>, 108 USPQ2d 1341 (TTAB 2013) to clarify that letter of protest submitted during prosecution was later submitted under notice of reliance as evidence by opposer during trial</p> <p>Note 8: Replaces TMEP § 1715.02(b) with TMEP § 1715.03(b)</p> <p>Note 9: Replaces TMEP § 1715.02(c) with TMEP § 1715.03(b); adds TMEP § 1715.04(b)</p> <p>Delete Notes 10 and 11; former Note 12 renumbered as Note 10</p>
	<p><b>CHAPTER 300</b></p>
303.03	<p>Substituted the wording “entitlement to a statutory cause of action” in place of the term “standing” throughout subsection; explains the new nomenclature of “zone of interests” i.e. “real interest” and “damage proximately caused by registration” i.e. “reasonable belief in damage”</p> <p>Note 1: Add <i>C orcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020) ; <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837 (Fed. Cir. 2020); <i>Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526 (TTAB 2020); <i>Major League Soccer, LLC v. F.C. International Milano S.p.A.</i>, 2020 USPQ2d 11488</p>

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>(TTAB 2020); <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i>, 2020 USPQ2d 11388 (TTAB 2020)</p> <p>Note 2: Add <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020) ; <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837 (Fed. Cir. 2020 ) ; <i>Empresa Cubana del Tabaco v. General Cigar Co.</i>, 753 F.3d 1270, 111 USPQ2d 1058 (Fed. Cir. 2014)</p> <p>Note 3: Add <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020) ; <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837 (Fed. Cir. 2020)</p> <p>Note 4: Add <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020) ; <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837 (Fed. Cir. 2020)</p>
303.06	Substituted the wording “entitlement to a statutory cause of action” in place of the term “standing” throughout subsection
307.01	Note 5: Add <i>In re MK Diamond Products, Inc.</i> , 2020 USPQ2d 10882 (TTAB 2020)
309.02(a)	<p>Substituted the wording “entitlement to a statutory cause of action” in place of the term “standing” throughout sub-section</p> <p>3rd para: Added “and 4) any common law rights in a mark and associated goods or services owned by opposer and not subject to any application or registration and cited as a basis for the opposition.”</p> <p>Note 5: Add <i>Destileria Serralles, Inc. v. Kabushiki Kaisha Donq</i>, 125 USPQ2d 1463, 1466-67 (TTAB 2017)</p>
309.03(a)(2)	Substituted the wording “entitlement to a statutory cause of action” in place of the term “standing” throughout subsection
309.03(b)	<p>Updated to reflect the U.S. Court of Appeals for the Federal Circuit adoption of the framework set forth by the U.S. Supreme Court in <i>Lexmark International, Inc. v. Static Control Components, Inc.</i>, 572 U.S. 118, 109 USPQ2d 2061 (2014). <i>Lexmark</i> established two requirements for determining whether a party is entitled to bring or maintain a statutory cause of action (the doctrine formerly known as standing): a party must demonstrate (i) an interest falling within the zone of interests protected by the statute, and (ii) proximate causation</p> <p>Note 1: Add <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020) ; <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837 (Fed. Cir. 2020 ) ; <i>Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526 (TTAB 2020); <i>Major League Soccer, LLC v. F.C. International Milano S.p.A.</i>, 2020 USPQ2d 11488 (TTAB 2020); <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i>, 2020 USPQ2d 11388 (TTAB 2020)</p> <p>New Note 2: Add <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020) ; <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837 (Fed. Cir. 2020 ) ; <i>Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526 (TTAB 2020); <i>Major League Soccer, LLC v. F.C. International Milano S.p.A.</i>, 2020</p>

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TBMP Section:	Nature of Change:
	<p>USPQ2d 11488 (TTAB 2020); <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i>, 2020 USPQ2d 11388 (TTAB 2020)</p> <p>New Note 3: Add <i>Empresa Cubana Del Tabaco v. Gen. Cigar Co.</i>, 753 F.3d 1270, 111 USPQ2d 1058 (Fed. Cir. 2014)</p> <p>New Note 4: Add <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020)</p> <p>New Note 5: <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i>, 2020 USPQ2d 11388 (TTAB 2020) (citing <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277 (Fed. Cir. 2020)</p> <p>Former Note 2 renumbered as Note 6: Add <i>Corcamore, LLC v. SFM, LLC</i>, 978 F.3d 1298, 2020 USPQ2d 11277, at *4 (Fed. Cir. 2020) (“we discern no meaningful, substantive difference between the analytical frameworks expressed in <i>Lexmark</i> and <i>Empresa Cubana</i>.”)</p> <p>Former Note 5 renumbered as Note 9: Add <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i>, 2020 USPQ2d 11388 (TTAB 2020)</p> <p>New Note 19: Add <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837 (Fed. Cir. 2020)</p> <p>Former Notes 2-18 renumbered</p>
309.03(c)(1)	<p>1st para: Substitutes the wording “an entitlement to a statutory cause of action” in place of the word “standing”</p> <p>Note numbers renumbered starting from Note 16 in light of prior typographical error identifying two Note 17s</p> <p>Note 6: Add <i>The Brooklyn Brewery Corporation v. Brooklyn Brew Shop, LLC</i>, 2020 USPQ2d 10914 (TTAB 2020); <i>Sock It To Me, Inc. v. Aiping Fan</i>, 2020 USPQ2d 10611 (TTAB 2020); <i>New Era Cap Co., Inc. v. Pro Era, LLC</i>, 2020 USPQ2d 10596 (TTAB 2020); <i>Moke America LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020); <i>Shannon DeVivo v. Celeste Ortiz</i>, 2020 USPQ2d 10153 (TTAB 2020)</p> <p>Note 7: Add <i>City of London Distillery, Ltd. v. Hayman Group Limited</i>, 2020 USPQ2d 11487 (TTAB 2020); <i>The Brooklyn Brewery Corporation v. Brooklyn Brew Shop, LLC</i>, 2020 USPQ2d 10914 (TTAB 2020)</p> <p>Note 10: Add to follow the Cf. signal <i>In re tapio GmbH</i>, 2020 USPQ2d 11387 (TTAB 2020); <i>In re Integrated Embedded</i>, 120 USPQ2d 1504 (TTAB 2016); <i>In re Eximius Coffee, LLC</i>, 120 USPQ2d 1276 (TTAB 2016); <i>In re Adlon Brand GmbH &amp; Co. KG</i>, 120 USPQ2d 1717 (TTAB 2016); deleted citations to the following cases prior to the Cf. signal in Note 10: <i>In re Integrated Embedded</i>, 120 USPQ2d 1504 (TTAB 2016); <i>In re Eximius Coffee, LLC</i>, 120 USPQ2d 1276 (TTAB 2016); <i>In re Adlon Brand GmbH &amp; Co. KG</i>, 120 USPQ2d 1717 (TTAB 2016)</p> <p>Note 13: Add <i>The United States Olympic Committee v. Tempting Brands Netherlands B.V.</i>, 2021 USPQ2d 164 (TTAB 2021); amended parenthetical to case citation <i>The Pierce-Arrow Society v. Spintek Filtration, Inc.</i>, 2019 USPQ2d 471774 (TTAB 2019) in note 13 to read as follows: (same)</p> <p>Note 19: Add <i>Sock It To Me, Inc. v. Aiping Fan</i>, 2020 USPQ2d 10611 (TTAB 2020)</p> <p>Note 22: Add Cf. <i>In re MK Diamond Products, Inc.</i>, 2020 USPQ2d 10882 (TTAB 2020)</p>

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>Note 23: Add to the Cf. signal: <i>In re Team Jesus LLC</i>, 2020 USPQ2d 11489 (TTAB 2020); <i>In re Lee Greenwood</i>, 2020 USPQ2d 11439 (TTAB 2020); <i>In re Vox Populi Registry Ltd.</i>, 2020 USPQ2d 11289 (TTAB 2020); <i>In re Mayweather Promotions, LLC</i>, 2020 USPQ2d 11298 (TTAB 2020); <i>In re AC Webconnecting Holding B.V.</i>, 2020 USPQ2d 11048 (TTAB 2020)</p> <p>Note 25: Add <i>Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526, at *16-17 (TTAB 2020)</p> <p>Note 36: Amended signal See, e.g., to Cf. and added <i>In re Alabama Tourism Department</i>, 2020 USPQ2d 10485</p> <p>Note 39: Add See also signal: <i>International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020); add But see signal: <i>USPTO v. Booking.com B.V.</i>, 591 U.S. ___, 140 S.Ct. 2298, 2020 USPQ2d 10729 (2020)</p> <p>Note 41: Add Cf. signal: <i>In re Stanley Brothers Social Enterprises LLC</i>, 2020 USPQ2d 10658 (TTAB 2020); Deleted the Cf. signal preceding case citation to <i>Stawski v. Lawson</i>, 129 USPQ2d 1036, 1048-1053 (TTAB 2018)</p>
309.03(c)(2)	<p>Note 1: Add <i>Moke America LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020)</p> <p>Note 2: Add <i>Major League Soccer, LLC v. F.C. International Milano S.p.A.</i>, 2020 USPQ2d 11488, at *7 (TTAB 2020)</p>
311.02(a)	<p>1st para: Added the wording “knowledge or” prior to the word “information” in the second sentence</p> <p>New Note 2: Add Fed. R. Civ. P. 8(b)(5)</p> <p>Former Notes 2 and 3 renumbered</p>
311.02(b)(1)	Note 5: Deleted <i>Green Spot (Thailand) Ltd. v. Vitasoy International Holdings Ltd.</i> , 86 USPQ2d 1283 (TTAB 2008)
311.02(b)(1)	Note 8: Add <i>Green Spot (Thailand) Ltd. v. Vitasoy International Holdings Ltd.</i> , 86 USPQ2d 1283 (TTAB 2008)
311.02(b)(2)	Note 5: Add <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i> , 2020 USPQ2d 11388 (TTAB 2020)
311.02(c)	Note 1: Add <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i> , 2020 USPQ2d 11388 (TTAB 2020) and <i>Green Spot (Thailand) Ltd. v. Vitasoy International Holdings Ltd.</i> , 86 USPQ2d 1283 (TTAB 2008)
313.03	Substituted the wording “entitlement to a statutory cause of action” for the term “standing”
<b>CHAPTER 400</b>	
401.01	3rd para: Add “A party requesting the Board’s participation in the discovery conference should also inform the Board, either in their filing or in the phone call to the Board, of any other Board proceedings between the parties involving the mark(s) at issue.”
401.03	8th para: Clarifies that a party may supplement or correct information included in an expert report and information given in the expert’s deposition testimony before a up to and including the due date for a party’s pretrial disclosures

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TBMP Section:	Nature of Change:
	<p>Note 26: Delete reference to Fed. R. Civ. P. 26(e)(1)(A); add <i>Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i>, 2020 USPQ2d 10988 (TTAB 2020); revised parenthetical to <i>Gemological Institute of America, Inc. v. Gemology Headquarters International, LLC</i>, 111 USPQ2d 1559, 1561-62 (TTAB 2014)</p> <p>Note 27: Add <i>Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i>, 2020 USPQ2d 10988 (TTAB 2020); delete <i>Gemological Institute of America, Inc. v. Gemology Headquarters International, LLC</i>, 111 USPQ2d 1559, 1561-62 (TTAB 2014); changed signal to Cf. to <i>Entravision Communications Corp. v. Liberman Television LLC</i>, 113 USPQ2d 1526, 1528 n.5 (TTAB 2015) with new parenthetical</p> <p>Note 28: Add <i>Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i>, 2020 USPQ2d 10988 (TTAB 2020); add parenthetical to <i>ProMark Brands Inc. v. GFA Brands, Inc.</i>, 114 USPQ2d 1232, 1241 (TTAB 2015)</p>
404.03(b)	3rd para: Amends name of section within the U.S. Department of State that handles Letters Rogatory amended
404.03(c)(1)	Amends name of section within the U.S. Department of State that handles Letters Rogatory amended
404.03(c)(2)	8th para: Updates portion of internal address in U.S. Department of State; and amended name of section within the U.S. Department of State that handles Letters Rogatory amended
404.04	3rd para: Amends name of section within the U.S. Department of State that handles Letters Rogatory
404.06(b)	<p>7th para: Add phrase to clarify that the ten deposition limit under Fed. R. Civ. P. 30(a)(2)(A)(i) applies to Board proceedings</p> <p>New Note 16: Add <i>Spliethoff's Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i>, 2020 USPQ2d 10605, at *2 (TTAB 2020)</p> <p>Notes 16, 17 and 18 renumbered as “17”, “18” and “19”</p>
404.07(f)	Clarifies statement regarding objections to depositions upon written questions so that it is clear that such depositions may be used for both discovery and testimonial depositions.
404.09	<p>3rd para: Add clarification that a party make take testimony only during the assigned testimony period: “during that particular period.”</p> <p>Add New Note 2: Add <i>Spliethoff's Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i>, 2020 USPQ2d 10605 (TTAB 2020)</p> <p>Add to “<b>Please Note</b>” section as to why Fed. R. Civ. P. 45(a)(2) and 45(f) both are not applicable to Board proceedings.</p>
404.10	Add new subsection 404.10 “Limit on Number of Discovery Depositions”
406.04(b)	1st para: Revise to encourage practice of providing copies of responsive documents electronically and serving documents electronically
408.01	Note 1: Add <i>Anand K. Chavakula v. Praise Broadcasting aka Praise FM</i> , 2020 USPQ2d 10855 (TTAB 2020) and <i>Andrew R. Flanders v. DiMarzio, Inc.</i> , 2020 USPQ2d 10671 (TTAB 2020)

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
408.03	Note 1: Add <i>Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i> , 2020 USPQ2d 10988 (TTAB 2020) Note 5: Add <i>Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i> , 2020 USPQ2d 10988 (TTAB 2020) Note 8: Add <i>Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i> , 2020 USPQ2d 10988 (TTAB 2020)
411.04	Restructures and reorganizes for clarity; deleted Note 4 and moved citation to <i>Neville Chemical Co. v. Lubrizol Corp.</i> , 183 USPQ 184 (TTAB 1974) to Note 1
412.01(c)	Note 6: Updates parenthetical quotation in citation to <i>Noble House Home Furnishings, LLC v. Floorco Enterprises, LLC</i> , 118 USPQ2d 1413 (TTAB 2016) Note 11: Updates parenthetical quotation in citation to <i>Sports Authority Michigan Inc. v. PC Authority Inc.</i> , to delete wording not in the quotation and to include the term in bold type that was in the case
412.02	Remove “Highly Confidential” in title to section
412.06	Notes 2 and 6: Add <i>Andrew R. Flanders v. DiMarzio, Inc.</i> , 2020 USPQ2d 10671 (TTAB 2020)
412.06(a)	2nd para: Add cross references to information on how and when the limit on the number of discovery depositions may be exceeded, see TBMP § 404.10 and information on filing a motion for leave to serve additional depositions over the ten deposition limit, see TBMP § 519
412.06(b)	1st para: Add reference for obtaining additional information on “excessive discovery depositions” in view of new TBMP subsection 404.10 2nd para: Adds clarification on proportionality related to discovery depositions Note 4: Add <i>Cf. Spliethoff’s Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i> , 2020 USPQ2d 10605 (TTAB 2020) New Note 6: Add <i>Spliethoff’s Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i> , 2020 USPQ2d 10605 (TTAB 2020) Renumbered former Note 6 to Note 7
413.02	1st para: Adds that the Board has the discretion to order the parties to meet by video conference to resolve complex disputes surrounding disclosures and discovery for a pretrial conference
<b>CHAPTER 500</b>	
502.02(c)	1st para: Added after the fourth sentence: “To the extent a party has improperly designated information as confidential, the Board may disregard the confidential designation when appropriate.” New Note 3: Add 37 C.F.R. § 2.116(g) (“[t]he Board may treat as not confidential that material which cannot reasonably be considered confidential, notwithstanding a designation as such by a party.”); <i>see also Kohler Co. v. Honda Giken K.K.</i> , 125 USPQ2d 1468 (TTAB 2017) (citing <i>Noble House Home Furnishings, LLC v. Floorco Enters., LLC</i> , 118 USPQ2d 1413 (TTAB 2016)); <i>Couch/Braunsdorf Affinity, Inc. v. 12 Interactive</i> ,

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<i>LLC</i> , 110 USPQ2d 1458 (TTAB 2014). <i>Cf. Uniloc 2017 LLC v. Apple, Inc.</i> , 964 F.3d 1351, 2020 USPQ2d 10757 (Fed. Cir. 2020) Renumbered subsequent notes accordingly.
503.02	1st para: Added language to the second sentence: “the plaintiff has an entitlement to a statutory cause of action to bring the proceeding (formerly referred to as “standing”), <i>see</i> TBMP § 309.03(b)”
503.03	New Note 4: <i>Major League Soccer, L.L.C. v. F.C. Internazionale Milano S.p.A.</i> , 2020 USPQ2d 11488 (TTAB 2020)
506.02	1st para: Moved the following sentence as the second sentence of the first paragraph of this section instead of the last: “If no responsive pleading is required, the motion should be filed within 21 days after service upon the moving party of the pleading that is the subject of the motion. [Note 2.]”
513.01	2nd para: Reworded subsection 4 of the second sentence to read as follows: “a statement that any advance payment of fees or expenses that have not been earned or incurred have been refunded or, if appropriate, a statement that no fees or expenses have been paid in advance and not refunded;”
514.03	Note 5: Add <i>The Brooklyn Brewery Corporation v. Brooklyn Brew Shop, LLC</i> , 2020 USPQ2d 10914 (TTAB 2020)
518	Note 1: Add <i>The United States Olympic Committee v. Tempting Brands Netherlands B.V.</i> , 2021 USPQ2d 164 (TTAB 2021) New Note 7: <i>See The Scotch Whisky Association Ltd. v. ASW Distillery, LLC</i> , 2021 USPQ2d 179 (TTAB 2021) New Note 8: <i>See The Scotch Whisky Association Ltd. v. ASW Distillery, LLC</i> , 2021 USPQ2d 179 (TTAB 2021) New note 9: <i>The Scotch Whisky Association Ltd. v. ASW Distillery, LLC</i> , 2021 USPQ2d 179, at *7 (TTAB 2021); <i>Asustek Computer Inc. v. Chengdu Westhouse Interactive Entertainment Co.</i> , 128 USPQ2d 1470 (TTAB 2018); <i>Guess? IP Holder LP v. Knowluxe LLC</i> , 116 USPQ2d 2018 (TTAB 2015); <i>Vignette Corp. v. Marino</i> , 77 USPQ2d 1408 (TTAB 2005)
519	Revised section heading to: “Motion for Leave to Serve Additional Interrogatories, Requests for Production of Documents, or Requests for Admission, or to Exceed Discovery Deposition Limits” Add new subsection 519(a) entitled “Interrogatories, Requests for Production and Admissions”; moved former Notes 1-3 in Section 519 to subsection 519(a) Add new subsection 519(b) entitled “Discovery Depositions”; added new Notes 1-6
519(a)	New subsection: moved former discussion of motions for leave to serve additional interrogatories, requests for production of documents, or requests for admission
519(b)	New subsection: clarifies that the deposition limit of the Federal Rules of Civil Procedure applies in Board proceedings which limit parties to ten oral depositions each, but that a party may seek leave to conduct additional depositions under Fed. R. Civ. P. 30(a)(2)(A)(i); discussion regarding factors to be considered in determining whether to permit a party to take additional depositions beyond the ten-deposition limit

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>New Note 1: Fed. R. Civ. P. 30(a)(2)(A)(i); 37 C.F.R. § 2.116(a). <i>See Spliethoff's Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i>, 2020 USPQ2d 10605, at *2-3 (TTAB 2020)</p> <p>New Note 2: <i>Spliethoff's Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i>, 2020 USPQ2d 10605 (TTAB 2020) and cases cited therein</p> <p>New Notes 3 and 4: <i>Spliethoff's Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i>, 2020 USPQ2d 10605 (TTAB 2020)</p> <p>New Notes 5 and 6: <i>Spliethoff's Bevrachtingskantoor B.V. v. United Yacht Transport LLC dba United Yacht Transport</i>, 2020 USPQ2d 10605 (TTAB 2020); <i>see also</i> Fed. R. Civ. P. 26(b)(1) and 26(b)(2)</p>
521	<p>Note 2: Revise parenthetical to <i>Cf. Ate My Heart, Inc. v. GA Jeans Ltd.</i>, 111 USPQ2d 1564 (TTAB 2014)</p> <p>Note 3: Add <i>Flanders v. DiMarzio, Inc.</i>, 2020 USPQ2d 10671 (TTAB 2020)</p> <p>Note 3: Deleted 37 C.F.R. § 2.120(b)</p>
523	<p>1st para: Added “or to compel initial disclosures, see 37 C.F.R. § 2.120(f). With regard to initial disclosures, however, a party may file a motion for sanctions when a party has expressly stated to its adversary that it does not intend to meet its obligation to provide initial disclosures.”</p> <p>1st para: Deleted “or sanction a party for failing to make initial disclosures after being ordered to do so.”</p> <p>New Note 4: <i>Kairos Institute of Sound Healing LLC v. Doolittle Gardens, LLC</i>, 88 USPQ2d 1541 (TTAB 2008)</p> <p>Renumbered remaining notes</p>
527.01(e)	<p>Note 3: Add <i>Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i>, 2020 USPQ2d 10988 (TTAB 2020)</p>
528.06	<p>Note 2: <i>Chavakula v. Praise Broadcasting AKA Praise FM</i>, 2020 USPQ2d 10855 (TTAB 2020)</p>
528.07(a)	<p>Note 1: Add <i>Spanishtown Enterprises, Inc. v. Transcend Resources, Inc.</i>, 2020 USPQ2d 11388 (TTAB 2020)</p>
530	<p>1st para: Added the wording “or filed” after the word “taken” in the first sentence of the paragraph.</p> <p>4th para: Added “(i.e. an oral testimony deposition or testimony affidavit or declaration)” after the wording “only trial testimony”</p>
532	<p>New Note 1: 37 C.F.R. § 2.122(g). <i>See, e.g., STX Financing, LLC v. Stacey Michelle Terraza</i>, 2020 USPQ2d 10989 (TTAB 2020)</p> <p>Renumbered remaining notes</p> <p>Renumbered Notes 2 and 3: Add <i>STX Financing, LLC v. Stacey Michelle Terraza</i>, 2020 USPQ2d 10989 (TTAB 2020)</p>
533	<p>Revised section heading from “Motion to Strike Trial Testimony Deposition” to “Motion to Strike Trial Testimony Affidavits and Declarations, and Oral Testimony Depositions”</p>
533.01	<p>Added text of 37 C.F.R. § 2.123(a)(1) under subsection heading</p>

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>1st para: Revised first clause to “A party may not take an oral testimony deposition or execute or submit a testimony affidavit or declaration outside of its assigned testimony period, ...”</p> <p>2nd para: Revised first sentence to clarify that untimeliness objections may be raised not only against testimony depositions but also testimony affidavits or declarations; added “or a testimony affidavit or declaration is executed or filed outside of the assigned testimony period”; deleted last sentence in the paragraph and replaced with “In some circumstances it may be appropriate for the adverse party to wait and raise this ground for objection in its brief on the case; however, in others it may be deemed waived.”</p> <p>Note 1: Add <i>See Hole In 1 Drinks, Inc. v. Lajtay</i>, 2020 USPQ2d 71345 (TTAB 2020); <i>Wirecard AG v. Striatum Ventures B.V.</i>, 2020 USPQ2d 10086 (TTAB 2020); <i>M/S R.M. Dhariwal (HUF) 100% EOU v. Zarda King Ltd.</i>, 2019 USPQ2d 149090 (TTAB 2019); <i>Robinson v. Hot Grabba Leaf, LLC</i>, 2019 USPQ2d 149089 (TTAB 2019), <i>cancellation order vacated on default judgment</i>, No. 0:19-cv-61614-DPG (S.D. Fla. Dec. 17, 2019). <i>See also Fossil Inc. v. Fossil Group</i>, 49 USPQ2d 1451 (TTAB 1998). <i>But see International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020)</p> <p>Note 3: <i>See Societe Des Produits Nestle S.A. v. Cándido Viñuales Taboada</i>, 2020 USPQ2d 10893 (TTAB 2020); <i>Cf. Moke Am erica, LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020)</p>
533.02(a)	<p>Amended subsection title heading from “On Ground of Improper or Inadequate Notice” to “On Ground of Improper or Inadequate Notice of Witness Testimony Taken by Oral Testimony Deposition” to reflect that the section concerns notice of only witness testimony taken by oral examination</p> <p>Revised language throughout body of section to reflect that section concerns notice of oral testimony</p> <p>1st para: In first sentence, added “or rebuttal” before “disclosures”; deleted last sentence pertaining to testimony presented by affidavit or declaration</p> <p>Deleted former Note 2 and substituted the following citation as to the new Note 2: See 37 C.F.R. § 2.123(e)(3); subsequent notes renumbered accordingly</p>
533.02(b)	<p>Amended subsection title heading from “On Ground of Failure to Disclose Witness in Expert or Pretrial Disclosures” to “On Ground of Failure to Disclose Witness in Expert, Pretrial or Rebuttal Disclosures”</p> <p>Added language under the citation to 37 C.F.R. § 2.123(e)(3)</p> <p>1st and 2nd para: Deleted language from the last sentence in the second paragraph of the section and replaced it at the beginning of the first sentence of the first paragraph: “Pretrial and rebuttal disclosures require that a party, in advance of the presentation of its testimony, inform its adversary of the names of, and certain minimal identifying information about, the individuals who are expected to, or may, if the need arises, testify at trial.”</p> <p>2nd para: Added clause “With regard to expert witnesses, as with fact witnesses, the...” to first sentence in paragraph</p>

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>5th para: Added “or rebuttal” between “pretrial” and “disclosures”</p> <p>8th para: Added after the wording “following five-factor test”: “enunciated in <i>Southern States Rack &amp; Fixture, Inc. v. Sherwin-Williams Co.</i>, 318 F.3d 592 (4th Cir. 2003) and adopted by the Board in <i>Great Seats Inc. v. Great Seats Ltd.</i>, 100 USPQ2d 1323 (TTAB 2011)</p> <p>Moved former Note 4 to Note 1 and renumbered accordingly</p> <p>Note 7: Deleted citation to <i>Wonderbread 5 v. Gilles</i>, 115 USPQ2d 1296 (TTAB 2015); added <i>Counsel Inc. v. Strictly of Counsel Chartered</i>, 21 USPQ2d 1555 (TTAB 1991)</p> <p>Note 8: <i>See Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526 (TTAB 2020); <i>Societe Des Produits Nestle S.A. v. Cándido Viñuales Taboada</i>, 2020 USPQ2d 10893 (TTAB 2020). <i>Cf. Moke America, LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020); deleted cross reference to TBMP § 533.02</p>
533.03	<p>Amended subsection title heading from “When Motion to Strike Should not be Filed” to “Guidance Regarding Motions to Strike Testimony and Raising Substantive Objections”</p> <p>2nd para: Revised to clarify that this paragraph applies only to testimony depositions</p> <p>New 3rd para: “The defending party may seasonably raise the objection in different ways where the testimony is by declaration or affidavit depending on the circumstances of the case. [Note 4.] For example, in the case of a curable objection such as lack of foundation, the defending party may elect to seek oral cross-examination, query the foundation for the testimony and exhibits introduced, and, if the defending party finds the foundation testimony to be insufficient, it may raise an objection to the testimony or exhibit on the deposition record. [Note 5.]”</p> <p>New 4th para: “In the alternative, the defending party may serve an objection on the party proffering the declaration or affidavit and assert the objection in its brief. The defending party should file the objection with the Board when made, to put the Board on notice that it made a timely objection and the party offering the witness may seek to extend or reopen testimony to cure the defect. The proffering party has the option of trying to cure the defect or arguing that the objection should be overruled. [Note 6.]”</p> <p>New 5th para: “Finally, an objection may be made by way of a motion to strike filed no later than the twenty (20) days permitted for the defending party to elect cross-examination, which again puts the proffering party on notice that there may be a curable defect and puts the Board on notice that an extension or reopening of the testimony period may be sought, recognizing that a determination may be deferred to final decision. [Note 7.] The key aspect is that an objection is seasonably lodged. [Note 8.] The manner in which it is raised may vary depending on the circumstances.”</p> <p>Add New Notes 4-8</p> <p>New Notes 4, 6-7: <i>Moke America, LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020)</p>

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>New Note 5: <i>Moke America, LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020). <i>See, e.g., Barclays Capital Inc. v. Tiger Lily Ventures</i>, 124 USPQ2d 1160 (TTAB 2017)</p> <p>New Note 8: Add <i>Moke America, LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020); <i>International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020)</p>
535	<p>Add New Note 1: <i>Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526, at *2 (TTAB 2020); <i>Orange Bang, Inc. v. Ole Mexican Foods, Inc.</i>, 116 USPQ2d 1102 (TTAB 2015)</p> <p>Renumbered remaining notes accordingly</p>
<b>CHAPTER 600</b>	
602.02(b)	<p>Note 7, Add: <i>Jill E. Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526, at *2 (TTAB 2020); <i>Yazhong Investing Ltd. v. Multi-Media Tech. Ventures, Ltd.</i>, 126 USPQ2d 1526, 1531 (TTAB 2018); <i>Couch/Braunsdorf Affinity, Inc. v. 12 Interactive, LLC</i>, 110 USPQ2d 1458, 1471 (TTAB 2014); <i>Blackhorse v. Pro-Football, Inc.</i>, 111 USPQ2d 1080, 1083, n.7 (TTAB 2014)</p>
605.03(b)	<p>1st para: new language for clarity</p>
605.03(d)	<p>Note 1, add: <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 965 F.3d 1370, 2020 USPQ2d 10837, at *5 (Fed. Cir. 2020); delete: <i>Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC</i>, 129 USPQ2d 1027, 1036 (TTAB 2018)</p>
<b>CHAPTER 700</b>	
701	<p>1st and 2nd Para: Clarified that trial order includes period for rebuttal disclosures, and trial period (generally referred to as “testimony” or “rebuttal” period) is time for party to take testimony and introduce other evidence</p> <p>Note 1: Add <i>Cf. International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020)</p>
702.01	<p>Note 2: Revised to See instead of Cf. <i>Kate Spade LLC v. Thatch, LLC</i>, 126 USPQ2d 1098 (TTAB 2018)</p> <p>Note 5: <i>Cf. Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526 (TTAB 2020)</p> <p>Note 10: Add <i>Cf. Societe Des Produits Nestle S.A. v. Taboada</i>, 2020 USPQ2d 10893 (TTAB 2020)</p> <p>Note 17: <i>Cf. Peterson v. Awshucks SC, LLC</i>, 2020 USPQ2d 11526 (TTAB 2020)</p> <p>Notes 18: Add <i>Cf. Empresa Cubana Del Tabaco d.b.a Cubatabaco v. General Cigar Co., Inc.</i>, 2020 USPQ2d 10988 (TTAB 2020)</p>
702.02	<p>Note 4: Add <i>See, e.g., International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020)</p>

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TBMP Section:	Nature of Change:
702.03	2nd Para: Add “Any redirect and recross is to be taken at the same time as the oral cross-examination” with new Note 6 and cross reference to TBMP § 703.01(b); New Note 6: Add <i>Peterson v. Awshucks SC</i> , 2020 USPQ2d 11526 (TTAB 2020) Renumbered former Notes 6-9 to Notes 7-10
702.04(a)	Deleted information about now-concluded pilot program from end of text (above “Please Note”) Notes 1, 2 and 6: Add <i>Societe Des Produits Nestle S.A. v. Taboada</i> , 2020 USPQ2d 10893 (TTAB 2020)
702.04(b)	2nd Para: Changed “standing” to “whether the plaintiff has an entitlement to a statutory cause of action to bring the proceeding (formerly referred to as “standing”) and Add cross-reference to TBMP § 309.03(b)
702.04(d)	5th Para: Changed “standing” to “whether the plaintiff has an entitlement to a statutory cause of action to bring the proceeding (formerly referred to as “standing”) and add cross-reference to TBMP § 309.03(b)
702.04(e)	Note 1: Add <i>See, e.g., Brooklyn Brewery Corp . v. Brooklyn Brew Shop, LLC</i> , 2020 USPQ2d 10914 (TTAB 2020); <i>New Era Cap Co., Inc. v. Pro Era, LLC</i> , 2020 USPQ2d 10596 (TTAB 2020); and <i>Moke America LLC v. Moke USA, LLC</i> ; 2020 USPQ2d 10400 (TTAB 2020)
702.05	Notes 1 and 3: Add <i>See, e.g., Societe Des Produits Nestle S.A. v. Taboada</i> , 2020 USPQ2d 10893 (TTAB 2020)
703.01(a)	Note 3: Add <i>See, e.g., New Era Cap Co., Inc. v. Pro Era, LLC</i> , 2020 USPQ2d 10596 (TTAB 2020)
703.01(b)	Note 8: Add <i>Peterson v. Awshucks SC</i> , 2020 USPQ2d 10596 (TTAB 2020)
703.01(c)	Note 1: Add <i>Cf. International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020)
703.01(h)	6th Para: Add “and the proffering party may conduct redirect examination of a witness following cross-examination” and changed “pretrial disclosure” to “pretrial or rebuttal disclosure” Note 9 and as Cf. to Note 11: Add <i>Peterson v. Awshucks SC</i> , 2020 USPQ2d 11526 (TTAB 2020)
703.01(i)	5th Para: Add “CD, DVD, USB drive, etc. (“physical media”) submissions should <b>not</b> be used for exhibits that can be submitted via ESTTA as image or text files. Physical media should <b>only</b> be used when filing via ESTTA is not possible.” Notes 6 and 13: Add <i>Moke America LLC v. Moke USA, LLC</i> , 2020 USPQ2d 10400 (TTAB 2020)
703.01(m)	Note 1: Add <i>Cf. Moke America LLC v. Moke USA, LLC</i> 2020 USPQ2d 10400 (TTAB 2020)
703.01(p)	Note 2: Add <i>Brooklyn Brewery Corp . v. Brooklyn Brew Shop, LLC</i> 2020 USPQ2d 10914 (TTAB 2020) and <i>Swiss Watch International Inc. v. Federation of the Swiss Watch Industry</i> , 101 USPQ2d 1731 (TTAB 2012)

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
703.02(c)	Note 1: Deleted <i>Wirecard AG v. Striatum Ventures B.V., Robinson v. Hot Grabba Leaf, LLC, Fossil Inc. v. Fossil Group, and Cf. Of Counsel Inc. v. Strictly of Counsel Chartered</i>
704.02	Note 3: Deleted <i>See, e.g., Hunt-Wesson Foods, Inc. v. Riceland Foods, Inc.</i> , 201 USPQ 881 (TTAB 1979) Notes 3 and 4: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020)
704.03(a)	Note 1: Add <i>I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020)
704.03(b)(1)(B)	Note 1: Add 37 C.F.R. § 2.122(e)(1); <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020); and <i>Rocket Trademarks Pty. Ltd. v. Phard S.p.A.</i> , 98 USPQ2d 1066 (TTAB 2011) Note 4: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020)
704.03(b)(2)	Note 1: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020); <i>Weider Publications, LLC v. D&amp;D Beauty Care Co.</i> , 109 USPQ2d 1347, 1351 n.10 (TTAB 2014) and <i>Kohler Co. v. Baldwin Hardware Corp.</i> , 82 USPQ2d 1100 (TTAB 2007) Note 2: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020)
704.08(b)	1st Para: Add “either on its face or on the notice of reliance cover sheets” at end of first sentence 6th Para: Deleted “which essentially are links to the website pages” 10th Para: Deleted “with each page displayed so it can be read from top to bottom” and changed “The submitting party must also ensure that such evidence is complete” to “The submitting party may submit only the relevant portions of a website so long as the portions are sufficient to show their context” in last Para; Note 3: Add <i>I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020) Notes 4: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020) Note 8: Add <i>I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020) Note 18: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020); Deleted <i>Cf. Luxco, Inc. v. Consejo Regulador del Tequila, A.C.</i> , 121 USPQ2d 1477 (TTAB 2017)
704.10	Note 6: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020) Note 15: Add <i>Peterson v. Awshucks SC, LLC</i> , 2020 USPQ2d 11526, at *1 n.9 (TTAB 2020)

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
704.12(b)	Note 1: Add <i>I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020)
705	Add new final paragraph: This section is intended to provide a brief overview of stipulated evidence and ACR. For more detailed information and recent cases, please see TBMP § 528.05(a)(2) and TBMP § 702.04” to beginning; 3rd Para: Deleted cross references to TBMP § 528.05(a)(2) and TBMP § 702.04”
706	Note 1: Add <i>I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020)
707.01	New Note 2: Add <i>Moke America LLC v. Moke USA, LLC</i> , 2020 USPQ2d 10400 (TTAB 2020) and <i>S ociete Des Produits Nestle S.A. v. Taboada</i> , 2020 USPQ2d 10893 (TTAB 2020) Note 6: Add <i>I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020) Renumbered old Notes 2-6 to Notes 3-7
707.02(b)(1)	Note 2: Add <i>Cf. I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020)
707.02(b)(2)	Notes 1 and 3: Add <i>STX Financing, LLC v. Terraza</i> , 2020 USPQ2d 10989 (TTAB 2020)
707.03(a)	1st Para: Add “or after receipt of a testimony declaration or affidavit” Note 1: Add <i>S ociete Des Produits Nestle S.A. v. Taboada, Moke America LLC v. Moke USA, LLC</i> , 2020 USPQ2d 10400 (TTAB 2020) and quotation to parenthetical for <i>Nahshin v. Product Source International LLC</i> , 107 USPQ2d 1257, 1259 (TTAB 2013) Note 2: Add <i>See, e.g., I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020) New Note 3: Add <i>Moke America LLC v. Moke USA, LLC</i> , 2020 USPQ2d 10400 (TTAB 2020); <i>I nternational Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i> , 2020 USPQ2d 10892 (TTAB 2020)
707.03(b)(1)	1st Para: Add “oral” before “testimony deposition” and “execute or” before “submit a testimony affidavit or declaration” 2nd Para: Changed “and a testimony deposition is taken or is submitted by testimony declaration or affidavit after the close of the deposing or offering party’s testimony period” to “and a testimony deposition is taken or a testimony declaration or affidavit is executed or submitted after the close of the deposing or offering party’s testimony period” 3rd Para: Add “executed or” before “submitted prior to the opening of the submitted party’s testimony period”

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>Note1: Add <i>Cf. International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892, at *3 n.12 (TTAB 2020)</p> <p>Note 3: Add <i>International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020)</p>
707.03(b)(3)	<p>1st and 3rd Paras: Changed “pretrial disclosure” to “pretrial or rebuttal disclosure”</p> <p>Note 1: Add <i>Cf. Peterson v. Awshucks SC, LLC</i> 2020 USPQ2d 11526 (TTAB 2020) and <i>Societe Des Produits Nestle S.A. v. Taboada</i>, 2020 USPQ2d 10893 (TTAB 2020); modified parenthetical to <i>WeaponX Performance Products Ltd. v. Weapon X Motorsports, Inc.</i>, 126 USPQ2d 1034 (TTAB 2018)</p> <p>Note 4: <i>Cf. Peterson v. Awshucks SC, LLC</i> 2020 USPQ2d 11526 (TTAB 2020)</p> <p>Note 6: Add <i>Societe Des Produits Nestle S.A. v. Taboada</i>, 2020 USPQ2d 10893 (TTAB 2020)</p>
707.03(c)	<p>Divided into three new subsections: 707.03(c)(1) entitled “Oral Testimony Depositions”; 707.03(c)(2) entitled “Testimony By Affidavit or Declaration”; and 707.03(c)(3) entitled “Testimony Depositions on Written Depositions”</p> <p>Moved former Notes 1-14 to new subsection 707.03(c)(1)</p> <p>Moved former Notes 15-18 to new subsection 707.03(c)(2) and renumbered as Notes 1-4 with new Note 5</p> <p>Moved former Notes 19-20 to new subsection 707.03(c)(3) and renumbered as Notes 1-2</p> <p>1st Para: Add “any form of” before “testimony” in 1st Para</p> <p>Added new 2nd paragraph: “Because parties that have raised objections to trial testimony generally will not know the disposition thereof until final decision, they should argue the matters alternatively in their briefs on the case.”</p> <p>Added new 3rd paragraph: “Please Note: Some of the cases cited in this section established principles later codified in the cited provisions in former 37 C.F.R. § 2.123(i), now 37 C.F.R. § 2.123(j), or were decided under rules which were the predecessors to such provisions</p>
707.03(c)(1)	<p>Note 8: Delete <i>Spiritline Cruises LLC v. Tour Management Services, Inc.</i>, 2020 USPQ2d 48324 (TTAB 2020) and <i>Krause v. Krause Publications Inc.</i>, 76 USPQ2d 1904 (TTAB 2005)</p> <p>Note 9: Add <i>RxD Media, LLC v. IP Application Development LLC</i>, 125 USPQ2d 1801 (TTAB 2018); delete <i>Spiritline Cruises LLC v. Tour Management Services, Inc.</i>, 2020 USPQ2d 48324 (TTAB 2020); <i>Milwaukee Electric Tool Corp. v. Freud America, Inc.</i>, 2019 USPQ2d 460354 (TTAB 2019); <i>M/S R.M. Dhariwal (HUF) 100% EOU v. Zarda King Ltd.</i>, 2019 USPQ2d 149090 (TTAB 2019 ) and <i>Tao Licensing, LLC v. Bender Consulting Ltd.</i>, 125 USPQ2d 1043, 1047 (TTAB 2017)</p>
707.03(c)(2)	<p>Add “the Board ordinarily will not strike declaration or affidavit testimony on the basis of a substantive objection if the testimony was taken in accordance with the applicable rules; rather, the Board usually considers</p>

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	the objection upon evaluation of the probative value of the testimony at final hearing.”
707.04	<p>5th Para: Add “Further, the Board ordinarily will not strike affidavit or declaration testimony on the basis of a substantive objection if the testimony was taken in accordance with the applicable rules; rather, the Board usually will consider the objection upon evaluation of the probative value of the testimony at final hearing unless the objection has been waived.” and cross-reference Cf. to TBMP §707.02(c)</p> <p>Note 1: Add See generally <i>Moke America LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020); add See, e.g., <i>Societe Des Produits Nestle S.A. v. Taboada</i>, 2020 USPQ2d 10893 (TTAB 2020) and <i>International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020); delete <i>Coach Services Inc. v. Triumph Learning LLC</i>, 96 USPQ2d 1600 (TTAB 2010)</p> <p>Note 2: Add <i>Moke America LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020); <i>Societe Des Produits Nestle S.A. v. Taboada</i>, 2020 USPQ2d 10893 (TTAB 2020) and <i>International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i>, 2020 USPQ2d 10892 (TTAB 2020)</p> <p>Note 3: Add See generally <i>Moke America LLC v. Moke USA, LLC</i>, 2020 USPQ2d 10400 (TTAB 2020); delete <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i>, 124 USPQ2d 1160 (TTAB 2017)</p> <p>New Note 6: Add <i>Spiritline Cruises LLC v. Tour Management Services, Inc.</i>, 2020 USPQ2d 48324 (TTAB 2020); <i>Milwaukee Electric Tool Corp. v. Freud America, Inc.</i>, 2019 USPQ2d 460354 (TTAB 2019); <i>M/S R.M. Dhariwal (HUF) 100% EOU v. Zarda King Ltd.</i>, 2019 USPQ2d 149090 (TTAB 2019 ) and <i>Tao Licensing, LLC v. Bender Consulting Ltd.</i>, 125 USPQ2d 1043, 1047 (TTAB 2017)</p> <p>Renumbered Note 9 (former Note 8): Add <i>International Dairy Foods Association v. Interprofession du Gruyère, &amp; Syndicat Interprofessionnel du Gruyère</i></p> <p>Renumbered former Notes 6-8 to Notes 7-9</p>
	<b>CHAPTER 800</b>
801	Note 5: Add <i>Peterson v. Awshucks SC, LLC</i> , 2020 USPQ2d 11526, at *1 n.3 (TTAB 2020)and <i>Moke USA, LLC</i> , 2020 USPQ2d 10400, at *1 n.5 (TTAB 2020)
801.03	<p>Moved “Briefs at final hearing” from 37 C.F.R. § 2.128(b) text to 37 C.F.R. § 2.128 title;</p> <p>10th Para: Add reply brief “should not be used as an opportunity to argue plaintiff’s case in chief</p>
802.01	<p>2nd Para: Add fee requirement for oral hearings; clarified utility of hearings; and emphasized importance of record and brief</p> <p>New Note 2: Add 37 C.F.R. § 2.6(a)(24)</p> <p>Renumbered former Notes 2-4 to Notes 3-5</p>
802.02	1st Para: Add fee requirement for oral hearings

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	New Note 2: Add 37 C.F.R. § 2.64(a)(24) Renumbered former Note 2 to Note 3
802.03	1st Para: Add fee requirement for oral hearings Add “Please Note” about oral hearings by video Note 1: Add 37 C.F.R. § 2.6(a)(24)
802.03(a)	Changed “Board’s Hearing and Decision Specialist” to “Board’s Hearings and Decisions Program Specialist”
802.03(b)	Changed subsection title from “Video” to “Video Conference”
802.07	1st Para: Add new first sentence that “A party who wishes to present a visual aid at the hearing should email a copy to TTABHearings@uspto.gov and to opposing counsel at least three days before the hearing for distribution to the panel.” 2nd Para: Add three day minimum notice requirement to opposing counsel to present visual aid
802.08	3rd Para: Add procedure for presenting visual aids at hearings, and cross-reference to TBMP § 802.07
803	4th Para: Add “Generally” to beginning of paragraph 5th Para: Updated e-FOIA and associated links to TTAB Reading Room
804	Moved “Oral argument; reconsideration” from 37 C.F.R. § 2.129(c) text to 37 C.F.R. § 2.129 title
806	Updated normal termination steps, and clarified importance of notifying Board when a party files a civil action
807	2nd Para: Updated normal termination step (last sentence)
807.01	Updated general timing of status update process (in “Please Note”)
807.02	1st Para: Deleted “for some reason” from fourth line
	<b>CHAPTER 900</b>
902.01	2nd Para: Changed “A copy of the decision being appealed” to “A copy of the decision or order being appealed” 8th Para: Noted amendments to Rules adopted by the Federal Circuit, effective July 1, 2020
902.06	2nd Para: Add “assigned appeal number, and the short case name” to first sentence, “or index pursuant to Federal Circuit Rule 17(c)” to second sentence Note 4: Add cross-reference to Fed. Cir. R. 31(a)(1)(D) (deadlines for consolidated appeals per 2020 amendments)
903.07	Note 1: Add <i>Realvirt, LLC v. Lee</i> , 226 F. Supp. 3d 695 (E.D. Va. 2016), vacated as to attorneys’ fees, 734 F. App’x 754 (Fed. Cir. Aug. 14, 2018)
906.01	6th Para: Add “and factual findings on each relevant DuPont factor in the likelihood of confusion analysis” 8th Para: Add “a multi-color mark as applied to product packaging can never be inherently distinctive” with new Note 28, and “With regard to the likelihood of confusion analysis under a Section 2(d) claim, the U.S. Court of Appeals for the Federal Circuit reviews the factual findings of each relevant DuPont factor for substantial evidence, but reviews the Board’s

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>weighing of the DuPont factors de novo as a legal determination” with renumbered Note 30 (formerly Note 28)</p> <p>9th Para: Changed “Substantial deference is given” to “Deference is generally given” (immediately before Para titled “Collateral Estoppel effect”)</p> <p>Add new final Para: “Application of Board’s Trial Rules: The Board’s interpretation of its own rules and practice set forth in the TBMP is reviewed under the arbitrary, capricious, and abuse of discretion standard” with new Note 36, and some examples, with new Note 37</p> <p>Add new Notes 26, 28, 36 and 37, and renumbered former Notes 26 to 33 to Notes 27-35;</p> <p>New Note 26 and renumbered Note 30 (former Note 28): Add <i>Quiktrip W., Inc. v. Weigel Stores, Inc.</i>, 984 F.3d 1031, 2021 USPQ2d 35, at *2 (Fed. Cir. 2021)</p> <p>New Note 28: Add <i>In re Forney Indus., Inc.</i>, 955 F.3d 940, 2020 USPQ2d 10310, at *3 (Fed. Cir. 2020)</p> <p>Note 32 (former Note 30): Changed signals from “See” and “Cf.” to “Compare” and “with”</p> <p>New Note 36: Add <i>Royal Crown Co. v. Coca-Cola Co.</i>, 823 F. App’x 960, 2020 USPQ2d 10881, at *2 (Fed. Cir. 2020), <i>Cai v. Diamond Hong, Inc.</i>, 901 F.3d 1367, 127 USPQ2d 1797, 1799 (Fed. Cir. 2018); Deleted “But see <i>Custom Computer Services Inc. v. Paychex Properties Inc.</i>”</p> <p>New Note 37: Add <i>Royal Crown Co. v. Coca-Cola Co.</i>, 823 F. App’x 960, 2020 USPQ2d 10881, at *2 (Fed. Cir. 2020), <i>Cai v. Diamond Hong, Inc.</i>, 901 F.3d 1367, 127 USPQ2d 1797, 1799 (Fed. Cir. 2018); Deleted “But see <i>Custom Computer Services Inc. v. Paychex Properties Inc.</i>”</p>
	<b>CHAPTER 1000</b>
	No changes
	<b>CHAPTER 1100</b>
1101.01	Last para: add clarifying language
	<b>CHAPTER 1200</b>
1201.02	6th Para: Changed “file document in a Board proceeding” menu to “File Documents in a Board Proceeding” menu, and changed “Other Motion/Papers” to “Other motion/submission”
1202.01	<p>4th Para: Add “suspend proceedings and” before “remand the application to the examining attorney to consider the request for reconsideration”</p> <p>New Note 4: Add <i>In re UST Global (Singapore) Pte. Ltd.</i>, 2020 USPQ2d 10435 (TTAB 2020)</p> <p>Renumbered former Note 4 to Note 5</p>
1202.02	6th Para: Deleted information about alternatives to filing notice of appeal through ESTTA and petition to revive through TEAS
1202.03	6th Para: Changed “file document in a Board proceeding” menu to “File Documents in a Board Proceeding” menu, and changed “Other Motion/Papers” to “Other motion/submission”
1202.04	Note 1: Add 37 C.F.R. § 2.6(18)(i), 37 C.F.R. § 2.6(18)(ii)

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
1202.05	New Note 2: Add <i>Cf. In re UST Global (Singapore) Pte. Ltd.</i> , 2020 USPQ2d 10435 (TTAB 2020)
1203.01	1st Para: Add requirement that briefs be in at least 11-point type Note 1: Add <i>In re Information Builders Inc.</i> , 2020 USPQ2d 10444 (TTAB 2020) Note 6: Add <i>In re James S. Fallon</i> , 2020 USPQ2d 11249 (TTAB 2020) Note 13 and New Note 14: <i>In re Ox Paperboard, LLC</i> , 2020 USPQ2d 10878 (TTAB 2020) Renumbered former Notes 14 and 15 to Notes 15 and 16
1203.02(a)	1st Para: Add “with the requisite fees” at end of first sentence 6th Para: Add “if one has not already been filed” prior to TBMP cross reference New Note 1: Add 37 C.F.R. § 2.6(18)(iii) - 37 C.F.R. § 2.6(18)(vii), and “Please Note: there is no fee for filing the first request to extend time to file an appeal brief” per 37 C.F.R. § 2.6(18)(iii) Renumbered former Notes 1-7 to Notes 2-8
1203.02(b)	New Note 6: Add <i>In re MK Diamond Products, Inc.</i> , 2020 USPQ2d 10882 (TTAB 2020) New Note 10: Add <i>Cf. In re Fallon</i> , 2020 USPQ2d 11249 (TTAB 2020) Renumbered former Notes 6-8 to Notes 7-9
1203.02(c)	1st Para: Add filing fee for appeal brief but not for reply brief Add New Note 1: Add <i>Cf. 37 C.F.R. § 2.6(18)(vi) and 37 C.F.R. § 2.6(18)(vii)</i> Renumbered Note 3 (former Note 2): Add <i>Cf. In re Ox Paperboard, LLC</i> , 2020 USPQ2d 10878 (TTAB 2020) Renumbered former Notes 1-5 to Notes 2-6
1203.02(d)	Add 37 C.F.R. § 2.6(18)(iii) - 37 C.F.R. § 2.6(18)(v); New Note 2: Add “No fee is required for a first request for an extension of time to file an appeal brief”; Add 37 C.F.R. § 2.6(18)(iii) New Note 3: Add “However, a second or subsequent request for an extension of time to file an appeal brief must be accompanied by the requisite fee”; 37 C.F.R. § 2.6(18)(iv) and 37 C.F.R. § 2.6(18)(v)
1203.02(e)	New Note 2: Add <i>In re Information Builders Inc.</i> , 2020 USPQ2d 10444 (TTAB 2020) and <i>Cf. Life Zone Inc. v. Middleman Group, Inc.</i> , 87 USPQ2d 1953, 1955 n.4 (TTAB 2008) Renumbered Note 3 (former Note 2): Add <i>In re tapio GmbH</i> , 2020 USPQ2d 1138 (TTAB 2020) and <i>In re Fallon</i> , 2020 USPQ2d 11249 (TTAB 2020) Former Notes 2-3 to Notes 3-4
1203.02(f)	1st Para: Clarified limited utility of citing Board decisions that are designated “not a precedent” Notes 2 and 3: All case citations moved from Note 2 to New Note 3 New Note 3: Add <i>In re UST Global (Singapore) Pte. Ltd.</i> , 2020 USPQ2d 10435 (TTAB 2020) and <i>In re tapio GmbH</i> , 2020 USPQ2d 1138 (TTAB 2020)

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	New Note 4: Add <i>In re Society of Health and Physical Educators</i> , 127 USPQ2d 1584 (TTAB 2018) Renumbered Note 5 (former Note 3): Add “Bloomberg Law ceased publishing the USPQ in print form in December 2018”
1203.02(g)	Add “with a showing of good cause” to last sentence before new Note 3; Note 2: Add <i>In re MK Diamond Products, Inc.</i> , 2020 USPQ2d 10882 (TTAB 2020) New Note 3: Add <i>Cf. In re Ox Paperboard, LLC</i> , 2020 USPQ2d 10878 (TTAB 2020)
1204	11th Para: Add “with a showing of good cause” Note 1: Updated hyperlink to Trademark Office’s Consistency Initiative
1205	Add new subsection 1205.01 with “Please Note: This section only addresses an amendment made in an application during a pending appeal i.e. before a final decision on the merits has been issued.
1205.01(a)	Add new subsection 1205.01(a), and changed title from “In General” to “Amendments and Requests for Reconsideration” 1st Para: Clarified procedure to follow when an amendment is filed with a notice of appeal, or an amendment is still pending with the Examining Attorney when a notice of appeal is filed, and Add cross-reference to TBMP § 1204 Moved Notes 1-4 from former TBMP § 1205
1205.01(b)	Add new subsection 1205.01(b) “Amendments and Requests for Remand” with two sub-sections
1205.01(b)(1)	Add new sub-section 1205.01(b)(1) “In General” with Paras 1-4 from former TBMP § 1205; Renumbered old Notes 5-8 to Notes 1-4 and moved from former TBMP §1205
1205.01(b)(2)	Add new sub-subsection 1205.01(b)(2) “Preferred Practices for Amending Application during Appeal” with attendant explanation and direct citation to <i>In re Ox Paperboard, LLC</i> , 2020 USPQ2d 10878 (TTAB 2020), and possible outcomes if an applicant does not follow the preferred practices; Add cross-references to TBMP § 1205.01(b)(1) and TBMP § 1205.01(a) Renumbered old Note 9 to Note 1 and moved from former TBMP § 1205
1207.01	Note 1: Add <i>In re Fallon</i> , 2020 USPQ2d 11249 (TTAB 2020) and <i>In re tapio GmbH</i> , 2020 USPQ2d 11387 (TTAB 2020)
1207.02	Add to item (3) (“The applicant and examining attorney have agreed to the remand) Note 1: Add <i>In re Information Builders Inc.</i> , 2020 USPQ2d 10444 (TTAB 2020); <i>In re Fallon</i> , 2020 USPQ2d 11249 (TTAB 2020); and <i>In re tapio GmbH</i> , 2020 USPQ2d 11387 (TTAB 2020) New Note 6: Add <i>See, e.g., In re AC Webconnecting Holding B.V.</i> , 2020 USPQ2d 11048 (TTAB 2020) Renumbered former Notes 6-8 to Notes 7-9
1207.03	Note 1: Add <i>See, e.g., In re MK Diamond Products, Inc.</i> , 2020 USPQ2d 10882 (TTAB 2020)

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	Note 4: Add <i>In re Mayweather Promotions, LLC</i> ; 2020 USPQ2d 11298 (TTAB 2020) and <i>In re Boyd Gaming Corp.</i> , 57 USPQ2d 1944 (TTAB 2000)
1207.06	Subsection revised to reflect updates to letter of protest procedure under 37 C.F.R. § 2.149 Note 1: Deleted <i>In re Candy Bouquet International Inc.</i> , 73 USPQ2d 1883 (TTAB 2004) Note 2: Add <i>In re Information Builders Inc.</i> , 2020 USPQ2d 10444 (TTAB 2020); deleted <i>In re Urbano</i> , 51 USPQ2d 1776, 1778 n.4 (TTAB 1999) Note 3: Add <i>In re Information Builders Inc.</i> , 2020 USPQ2d 10444 (TTAB 2020); modified parenthetical to <i>In re Urbano</i> , 51 USPQ2d 1776, 1778 n.4 (TTAB 1999)
1208	4th Para: Add “Similar to inter partes proceedings, in an ex parte appeal, evidence properly made of record may be cited by either the examining attorney or by the applicant for any permissible purpose.” Note 3: Deleted <i>But see In re Hikari Sales USA, Inc.</i> , 2019 USPQ2d 111514 (TTAB 2019) New Note 10: Add <i>In re Guild Mortgage Co.</i> , 2020 USPQ2d 10279 (TTAB 2020) Renumbered former Note 10 to Note 11
1208.01	Note 5: Add <i>But see In re tapio GmbH</i> , 2020 USPQ2d 11387 (TTAB 2020)
1208.02	Add “and Applications” to title of subsection Note 12: Add <i>In re Team Jesus LLC</i> , 2020 USPQ2d 11489 (TTAB 2020) Note 14: Add <i>Action Temporary Services v. Labor Force, Inc.</i> , 870 F.2d 1563, 10 USPQ2d 1307, 1309 (Fed. Cir. 1989) (cancelled registrations are not evidence of any existing rights in a mark)
1208.03	Add new paragraph at the end of the subsection: “It is the obligation of the examining attorney and applicant to ensure that Internet evidence made of record is complete.” Note 32: Add <i>In re tapio GmbH</i> , 2020 USPQ2d 11387 (TTAB 2020)
1208.04	1st Para: Add “acronyms” and “abbreviations” to first sentence; deleted “acronyms and abbreviations” from second sentence Add new paragraph at end of subsection “The Board will not take judicial notice of facts not commonly known. [Note 11.] Even where facts are commonly known and accepted, however, the Board is not required to take judicial notice because the taking of judicial notice is discretionary.” Add “in the inter partes context” after “For a full discussion of judicial notice” Note 1: Add <i>In re tapio GmbH</i> , 2020 USPQ2d 11387 and <i>In re Cordua Rests. LP</i> , 110 USPQ2d 122, 1229 (TTAB 2014) Note 3: Add <i>See e.g., In re Guild Mortgage Co.</i> , 2020 USPQ2d 10279 (TTAB 2020) and <i>In re tapio GmbH</i> , 2020 USPQ2d 11387 New Note 11: Add <i>In re tapio GmbH</i> , 2020 USPQ2d 11387
1208.05	Note 1: Add <i>In re Fallon</i> , 2020 USPQ2d 11249 (TTAB 2020)

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
1209.01	2nd Para: Add “or if the nonproffering party consents to the submission of new evidence, even at a late stage of the appeal” New Note 4: Add <i>See, e.g., In re AC Webconnecting Holding B.V.</i> , 2020 USPQ2d 11048 (TTAB 2020) Renumbered former Notes 4-16 to Notes 5-17
1209.02	Add new 5th Para: “In addition, the examining attorney may also request remand for other reasons, including, for example, to request information from an applicant regarding a previously issued refusal.” before new Note 6; Note 1: Add <i>See, e.g., In re AC Webconnecting Holding B.V.</i> 2020 USPQ2d 11048 (TTAB 2020) Note 2: Add <i>In re AC Webconnecting Holding B.V.</i> , 2020 USPQ2d 11048 (TTAB 2020) New Note 6: Add <i>In re Vox Populi Registry Ltd.</i> , 2020 USPQ2d 11289 (TTAB 2020)
1209.03	Revised heading to “Upon Determination of Granted Letter of Protest” Updated subsection to reflect changes to letters of protest under 37 C.F.R. § 2.149
1211	1st Para: Add “i.e., before the Board issues a final decision” to first sentence Notes 1 and 2: Add <i>In re Information Builders Inc.</i> , 2021 USPQ2d 228 (TTAB 2021) Notes 3 and 4 (former Notes 1 and 3): Changed 37 C.F.R. § 2.68 to 37 C.F.R. § 2.68(a) Renumbered Note 5 (former Note 3): Add 37 C.F.R. § 2.68(b) Renumbered former Notes 1-4 to 3-6
1214	2nd Para: Add preferred practice for citing evidentiary record for consolidated cases, and cross-reference to TBMP § 1203.01 Add “and throughout the appeal” to last Para
1216	Add “Please Note” about oral hearings by video; 2nd Para: Add fee requirement for oral hearings, clarified utility of hearings, and emphasized importance of record and brief in 5th Para: Updated email address for USPTO video conference technician 6th and 7th Para: Changed “Board’s Hearing and Decision Specialist” to “Board’s Hearings and Decisions Program Specialist” Note 1: Add 37 C.F.R. § 2.6(a)(24)
1217	4th Para: Add cross-references to TBMP § 1202.01, TBMP § 1202.02 and TBMP § 1202.03 5th Para: Add cross-reference to TBMP § 1218 Renumbered old Notes 1-12 to Notes 2-13 Add <i>In re Information Builders Inc.</i> , 2021 USPQ2d 228 (TTAB 2021) to Notes 1, 6 (old Note 5) and 8 (old Note 7) Add <i>In re Carlton Cellars, LLC</i> , 2020 USPQ2d 10150 (TTAB 2020) to Notes 4 and 8 (old Notes 3 and 7)
1218	1st Para: Add “i.e., the Board has issued a final decision” before New Note 1

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<b>TBMP Section:</b>	<b>Nature of Change:</b>
	<p>New Note 1: Add <i>In re Information Builders Inc.</i>, 2021 USPQ2d 228 (TTAB 2021)</p> <p>Renumbered Note 2 (former Note 1): Add <i>In re Carlton Cellars, LLC</i>, 2020 USPQ2d 10150 (TTAB 2020) and <i>In re Information Builders Inc.</i>, 2021 USPQ2d 228 (TTAB 2021)</p> <p>Renumbered Note 3 (former Note 2): Add <i>In re Guaranteed Rate, Inc.</i>, 2020 USPQ2d 10869 (TTAB 2020); <i>In re Information Builders Inc.</i>, 2021 USPQ2d 228 (TTAB 2021) and <i>In re UST Global (Singapore) Pte. Ltd.</i>, 2020 USPQ2d 10435 (TTAB 2020)</p> <p>Renumbered Notes 4 and 5 ((former Notes 3 and 4): Add <i>Cf. In re Information Builders Inc.</i>, 2021 USPQ2d 228 (TTAB 2021), Renumbered former Notes 1-4 to Notes 2-5</p>